1953 (K) File No. Civ. A. A. (Dist: Police) 53

Legal DEPARTMENT

E BRANCH

Examined

Subject:— Civil Appeals and Applications under the District Police Act—

36

File No. Civ. A A (Dist. Police) 1/53

Stk. Scott. Slip 24-B

355

No.E.T.M.I.R.4580.
District Magistrate's Office.
Bijapur, 16th May 1953.

The Government Pleader,
High Court,Bombay.

Subject :- Spl.Civil application No.508/53 Rajaram Narasingrao Jadhav Vs.The District Magistrate,Bijapur & Ors.

Reference:- Your letter No.232 dated 17-4-1953.

****

In continuation of this office letter of even.No. dated 8-5-1953 addressed to the Assistant Registrar High Court,Bombay and copy endorsed to you I have the honour to send herewith the affidavit of my P.A, with the grounds for opposing the Civil application No.508/53 (with six copies there of) along with the original case papers.

You are requested to appear on my behalf and to oppose the application on these lines.

The copies of the rules framed by the District Magistrate under section 39-A of the Bombay District Police Act (Bom.IV of 1890) for keeping place of public entertainment are enclosed.

sd/- M.Allahbaksh.
District Magistrate,Bijapur.

Accnt.

1. The affidavit with the grounds for opposing th application.
2. The file of police papers of investigation (pages 1-33)
3. One file of the S.D.M.F.C.Bijapur City's Office bearing No.POL.ETM 140 (pages 1-15).
4. One file of the D.M.'s office (Pages 1-33).

Copy submitted to the Secretary to Government, Legal Department,Bombay with reference to his letter No.9726/E dated 24-4-1953 with a request to instruct the Government Pleader High Court Bombay to appear and oppose the said civil application.

2.....

2. A report under rule 71(2) of the Law Officers Rules is enclosed.

O.C.signed by the D.M.

For District Magistrate, Bijapur.

Accompaniment.

1. Notes under rule 72(2) of the Law Officers Rules. pages 1 to 3.

2. Copy of the affidavit ~~xxxxx~~ and plaint pages 5 to 15.

3. Copy of the Rules framed by the D.M. under section 39 -A of the Bombay District Police Act pages 17 to 29

3 ~~-~~ 69

Information as required by rule 71(2) of the Law Officers Rules:-

2(a) A copy of the plaint in half margin and notes being added in the margin stating whether such statements are correct or not and if not, in what respect they are incorrect is enclosed.

(b) (i) On 14-12-1952 the P.S.I.,A.C.B. Bijapur took a search of the store room of (1) Rajaram Narasingrao Jadhav (2) Yashwantrao Narasingrao Jadhav proprieters of the Modern Restaurant Bijapur near Chatre Theatre in the heart of the Bijapur City and attached 7 - bottles each containing 8 drams of Hydarbad liquor and bearing lebels of Government Distilleries Hydrabad Deccan.The proprieters had possessed a licence for running ahotel, issued by the District Magistrate under the Bombay District Police Act.Thus they committed breach of rule 12-B of the rules framed by the District Magistrate under section 39 A of the Bombay District Police Act for keeping places of Public Entertainment.Since the Sub-Divisional Magistrates were delegated the power of the District Magistrate for issuing licence for places of public entertainment, the District Superintendent of Police under his No.306/H dated 16-12-52 requested the Sub Divisional Magistrate,F.C., Bijapur City to cancel the hotel licence for the alleged breach of licence conditions. It is also stated by the District Superintendent of Police that a complaint in this connection has been ledged at Bijapur City Police Station under section 66(b) of the Bombay Prohibition Act.

In.....

In view of the District Superintendent of Police's report the Sub Divisional Magistrate, First Class, Bijapur City cancelled the licence under his No.POL/ETM 140 dated 17-12-1952.

Again on 23-12-1953 the applicant through his pleader applied for renewal of the licence for the year 1953 to the Sub Divisional Magistrate Bijapur City stating all his grounds in his application. The Sub Divisional Magistrate after considering his application passed an order dated 26-12-52 refusing to renew the licence.

Being aggreived by the order of the Sub-Divisional Magistrate the applicant-Shri Rajaram Narasing Jadhav applied to the District Magistrate for the restoration of the licence on the ground that the alleged liquor bottles were found in the house bearing C.T.S.No.1533 Ward No.II which is no way connected with him. He further stated that the house bearing C.T.S.No.1533 where the alleged liquor was found is let out by its owner Kasibai Desaini to one Mahadevappa Dudani since 1-10-1952 and that the applicant and the Modern Restaurant has nothing to do with C.T.S.No.1533. His contention was that the offending artidles were found in another building and not in C.T.S.No.1519 as stated in the Sub-Divisional Magistrate's order and that it is apparant that the Sub Divisional Magistrate has not gone through the facts of the case and is led away by the report of the District Superintendent of Police etc.

The District Magistrate directed the Additional District Magistrate to hear the parties who were heard on 3-1-1953. The ~~Public~~ Police Prosecutor took the preliminary objections to the Additional District Magistrate's court hearing the appeal as there is no provision in the rules for such appeal and in xi view of the II proviso to section 33(1) of the

5 3/71

Bombay Police Act which reserves the powers of Superintendance to Government. Since the Sub Divisional District has acted in this matter by virtue of District Magistrate's delegated authority it is questionable whether the Additional District Magistrate or District Magistrate can sit in appeal over the actions of the Sub Divisional Magistrate or allocate to himself the powers of Government under II provise to section 33(1) of the Bombay Police Act.

The Senior Police Prosecutor made it clear in his argument that the Police were -- prepared to prove that the offending liquor bottles were found in possession of the applicant.

In view of the doubtful nature of the District Magistrate's ~~athority~~ authority over the -- Sub-Divisional Magistrate's action under the rules the Additional District Magistrate -- recommended~~x~~ to the District Magistrate to dismiss the application. The Pleader for the x applicant promised to ~~show~~ show authority to the contrary on 7-1-1953 but he did not do so. His contention that the Sub Divisional Magistrate had not gone through the facts of the case is also negatived by his own application dated 23-12-1952 stating his own case and requesting the Sub Divisional Magistrate to reconsider the order and to renew the licence.

In view of the Additional District Magistrate's recommendations the District Magistrate dismissed the application of Shri Rajaram Narasingrao Jadhav under his No.ETM.SR dated 10-1-1953. Against this order the applicant has filed the civil application in the High Cou

making!....

making the District Magistrate and the D.S.P. as parties. He has not made Sub Divisional Magistrate a party against whose order of cancellation the applicant has approached the High Court.

(b) (ii) & (iii) The Civil application in question may be defended on the grounds mentioned in the notes appended herewith.

(c) The original case papers i.e. police papers of investigation, papers of the Court of the Sub-Divisional Magistrate F.C., Bijapur City and the original papers of the District Magistrate's office where there are -- documentary evidences have been sent to the Government Pleader High Court Bombay to oppose the application on all the favourable grounds stated in the accompanying statement.

O.C.signed)
by the D.M.)

For District Magistrate, Bijapur.

7 ~~S~~ 73

AFFIDAVIT.

Spl.Civil application No. 508/53
Rajaram Narasingrao Jadhaw Vs.
The District Magistrate, Bijapur & Ors.

9 75

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

Civil Application No. 508 of 1953.

District Bijapur.

1. Rajaram Narasingrao Jadhav, Hindu, Age 30, Trader of Bijapur ...APPLICANT.

VS

1. The Collector and District Magistrate, Bijapur.
2. The District Superintendent of Police, Bijapur. ... OPPONENTS.

Application under Articles 226 and 227 of the Constitution of India.

The Humble Petition of the applicant above named MOST RESPECTFULLY SHOWETH :-

I. The applicant is the proprietor of a Restaurant and Soda Fountain and a hotel named " Modern Restaurant " situate at Bijapur. It is located in a building owned by Shrimant Kasibai Desaini of Jainapur, bearing City Survey Number - 1519 in Ward No. II, the Municipal number being 1180. It is situated close to a theatre by name " Tripura Sundari Talkies, Bijapur " towards its north. This " Modern Restaurant " is in exis--tance for the last 7 or 8 years and the licence to run it was being renewed year after year by the District Magistrate, Bijapur (opponent No. 1) or his subor--dinate the City Sub-Divisional Magist--rate, First Class, under the privisions of the repealed Bombay District Police Act (Act No. IV of 1890), and since 1951, under the new Bombay Police Act (Act No. XXII of 1951). There were about 37 permanent boarders there in December 1952 and besides, it was catering the needs of various persons.

I. The licence to run the restaurant and Soda Fountain had been issued in the name of Rajaram Narasingrao Jadhav and Brothers.

The said licence is issued on 21-9-1949 by Additional District Magistrate. It was renewed from time to time upto 31-12-1952. - However it was cancelled on - 16-12-1952 by the Sub-Divisional Magistrate, Bijapur City. The - licence is marked 'I'.

II. At about 12-30 p.m. on 27-12-1952, the applicant was served with a copy of the Order issued by the Sub-Divisional Magistrate, First Class, Bijapur City, bearing No. P.C.L./E.T.M. 140 dated 17-12-1952, attached herewith and marked as Ex. 'A'. It stated that the opponent No. 2., the District Superintendent of Police had reported in his letter No. - 306/H dated 16-12-1952, that the licence holder, the applicant was found in poss--ssion of 3 bottles of Pale Brandy and 4 bottles of rum unauthorisedly, in his, restaurant, soda shop and Khanawal (hotel) situated in house No. 1519 of

II. The Order of the S.D.M. Bijapur City cancelling the licence is marked 'II'.

The letter of the D.S.P. Bijapur requesting cancellation of the licence is marked 'III'.

The letter of the D.S.P. is that the owners of the said restaurent were found in poss--ession of 3 bottles of pale brandy and 4 bottles of rum during the search made by the P.S.I., A.C.B., Bijapur. It

11 977

It does not mention that it was found in C.T.S.No.1519.

of Ward No. II, that opponent No. 2 had recommended the cancellation of the licence as they had committed the breach of the licence conditions and that the said Officer was cancelling the licence forthwith.

III and IV. The Police papers collected during investigation show - that Brandy and Rum bottles were found in house No.C.T.S. 1533-2. It was in possession of applicant and his brother and was used as the Store Room for the Restaurant. The room was taken on lease by the app--licant. An attempt was however made after the detect--ion of the offence to enter the name of Mahadevappa Dudhani, but the owner Kasibai Desaini of Jainapur refused to do so. The statements of Kashibai Desaini and her clerk are at pages 27/1 & 29/1 of Police Papers.

One Ingle, a Home Guard Officer produced at the Police Station one Mahadevappa Dudhani who claimed possess--ion of the room and the property to be his. There is evidence that this man is set up to escape liability.

English Translation of the Panchanama of attachment of the liquor bottles is marked 'V'.

The English Translation of the statement U/S 164 of the Clerk (Baburao) of the Owner Kashibai Desaini is marked 'VI'. The statement of the app--licant and his brother admi--tting the room from which the brandy and rum was attached (CTS No.1533) was their Store Room, and that the applicant gave the key of the lock of that room when demanded by the P.S.I. are at pages 8 and 9 of the file of the Police Papers and their English translations are appended herewith, marked 'VII and VIII'.

The English translation of the statement of the owner Kashibai Desaini is marked 'IX'.

III. As the opponent No. 1 was the person to issue and cancel the licence and as he had delegated the powers to the City Sub-Divisional Magistrate, First Class, the applicant approached the opponent No. 1 saying that it was absolutely false to say that any brandy or rum bottles were found in City Survey No. 1519, Ward II, where the " Modern Restaurant " is situated. No Policeman had ever entered the said premises, nor had anything been found as alleged in the said Order. On the enquiry the applicant had learnt that on 14-12-52, the Police had searched some other entirely different building situated in a different locality, but belonging to the same owner Shrimant Kasibai Desaini of Jainapur. That building was City Survey No. 1533 of Ward No. II situated in the Vithoba Temple Lane. That building consists of a few rooms only and each room was separately let out to different persons by the owner. One of such rooms had been let out by the said Kasibai Desaini to one Mahadevappa Virappa Dudhani since 1-10-1952 and it was said that the 3 bottles of pale brandy, 4 bottles of rum had been found in that room on 14-12-1952.

IV. The applicant humbly submit that neither himself nor his " Modern Restaurant " have anything to do with that room or its tenant Mahadevappa Virappa Dudani. The Police, however have reported, through some misunderstanding that the said bottles had been found in the " Modern Restaurant " of the applicant and situated in City Survey No. 1519, Ward No. II and the Learned City Sub--Divisional Magistrate, First Class, had passed the Order Ex. 'A' on that erreneous report.

V. The Police papers with the Panchanama were produced before the Addition-al District Magistrate on the date of hearing.

V. The application filed by the applicant with the opponent No. 1 for making enquiries and making restoring the licence, was transferred by opponent No. 1 to his personal Assistant, who is also the Addl. District Magistrate, Bijapur, That Officer fixed .....

13 #79

fixed the application for hearing on 3-1-1953 at 10 A.M. as per Ex. 'B', and directed the applicant to be present personally or through Pleader. The applicant went to his office on the said date and time and requested him to get produced amongst other documents, (i) the panchanama prepared by the Police and the Panchas regarding the finding of brandy and rum bottles found on - 14-12-1952 in the City Survey No.1533, Ward No. II, situated in the Vithoba Temple Lane and in the room occupied by Mahadevappa Virappa Dudani, and (ii) that receipt passed by the Gumasta and Agent of Kasibai Desaini regarding his tenancy of one room in City Survey No. 1533 were the brandy and rum bottles were found..

VI. It is not correct to state that the Additional District Magistrate refused to hear the applicant and his Pleader. The applicant's Pleaders and Police Prosecutors were fully heard and investigation papers were also produced before the - Additional District Magistrate for verification of the facts. The notes of the arguments prepared by the Additional District Magistrate are marked 'X'.

After hearing both the sides he submitted his recommendations to the District Magistrate, it is marked 'XI'

The District Magistrate, Bijapur after perusing the reco--mmendations passed an order marked 'XII' on 10-1-1953. The applicant applied for a certified copy of the Order of the District Supe Magistrate dated 10-1-53. As copy of it was already supplied to him and as D.M. has passed no other order, the reply as per Ex. No. 'D' produced by the appli--cant was given. If he had asked for the copy of the recommendations of the Additional District - Magistrate, Bijapur dated 8-1-1953, it would have been supplied to him.

VI. On 3-1-1953, the Additional District Magistrate refused to hear the applicant or his Pleader and refused to call for the papers including the two mentioned in para 5 above, which would have completely proved the innocence of the applicant. He gave the applicant no opportunity whatever to prove his case, nor did he even examine the applicant. And on 13-1-1953, the appli--cant received the Order of the District Magistrate, Bijapur, opponent No. 1 (Ex. 'C') bearing ~~6~~ No.E.T.M.S.R. dated 10-1-1953 saying that the application of the applicant had been dismissed. On the same day, the applicant applied for the certified copy of the Order dated 10-1-1953 showing the reasons for dismissing the application and even that request was refused, on 15-1-1953 on the ground that there was no separate order showing the grounds on which the request was refused (Ex.'D').

VII. The application was made to the District Magistrate by the applicant on 29-12-1952 (marked XIII).

The application for the renewal of the licence was made on 23-12-52 to the Sub-Divisional Magistrate Bijapur marked 'XIV). The S.D.M. passed an order on 26-12-52 after considering all the grounds urged in support of renewal of the licence.The Order is marked 'XV'.

VII. While these proceedings were going on, the applicant had applied on 23-12-1952 to renew the licence of the " Modern Restaurant " for the year 1953, and that request too has been rejected on the ground that the licence had been cancelled (Ex. 'EI').

VIII .....

15 13 84

VIII. The criminal case Bijapur City Cr.No.III-247/52 Sec. 66(b) Bombay Proh. Act is put up not against Mahadevappa Dudhani alone. It is put up against the applicant and his brother jointly or in the alter-native against the applicant, his brother, and Mahadevappa Dudhani jointly. The copy of the Charge-sheet is marked 'XVI'.

VIII. The applicant understands that a criminal case has now been put up against the said Mahadevappa Virappa Dudhani for being in unauthorised possess-ion of 3 bottles of pale brandy and 4 bottles of rum and that the same is pending in the Court of the Resident Magistrate, First Class, Bijapur.

IX. Being aggrieved by the said Order Ex. 'A' of the Sub-Divisional Magi-strate, First Class, Bijapur City, to whom opponent No. 1 had delegated his powers and further orders Ex. 'C' and Ex. 'E', the applicant begs to approach this Hon'ble High Court under articles 226 and 227 of the Constitution of India on the following among other grounds :-

IX.

1. It is not correct.

1. The Orders passed by opponent No. 1 and his subordinate the City Sub-Divisional Magistrate, First Class, Bijapur, are contrary to law and evidence and rules of natural Justice.

2. The criminal case is sent up against the applicant and his brother and in the alternative against the applicant, his brother and Mahadevappa Dudhani.

2. The licence of the applicant to run th " Modern Restaurant " ought not to hav been cancelled until the criminal case put up against Mahadevappa Virappa Dudhani had been decided in the Magisterial Court.

3. The Order of the S.D.M. is justifiable under the cir-cumstances of the case. Brandy and rum bottles were found in City S.No.1533 which was in occupation of the applicant and his brother.

3. At any rate, enquiries should have been made by the City Sub-Divisional Magistrate, First Class before issuing his Order Ex. 'A', as to whom was in occupation of the room in City Survey No. 1533 where the bottles were found.

4. The D.S.P. reported that the owner of the licence was found in the possession of brandy and rum illegally. D.S.P. expressly stated in that report that a complaint had been lodged in that connection at Bijapur City Police Stn. That complaint is marked 'XVII' in Police Papers and therein it is specifically stated that the house in which the pale brandy and rum was found was C.T.S.No.1533. Applicant was sufficiently heard by Addl. District Magistrate and had every opportunity to disprove the allegations.

4. The allegation in the said Order Ex. 'A' that the said bottles were found in the premises of the " Modern Restaurant " is absolutely erroneous.

5. Cancelling of a licence being a judicial or at least quesi-judicial act, the rules of natural justice would require that an enquiry should have been made and an opportunity given to the applicant to disprove the allegations made against him.

6. Not correct.

6. It was an error to have rejected the prayer of the applicant to allow him to show that he or his ' Modern Restaurant ' were in no way concerned with the bottles and to have passed the order Ex. 'C'.

7. The copy of the Order dt. 10-1-1953 was asked for and it was already supplied .....

7. It was an error to have refused to disclose the grounds made by the Additional District Magistrate, on

which .....

17 4-53.

supplied to him. Please vide No. XII. Therefore the statement in sub-para 7 of the application of the applicant is not correct.

8 and 9. They are not correct.

10. There was justifiable cause. It is open to the applicant to approach the State Government under privisio 2 to Sec. 33(1) of Bombay Police Act. The applicant has not availed of this remedy. The applicant is not entitled to the relief sought for by him. The case sent up against the appli-cant and his brother or in the alternative against him, his brother and Mahadevappa Dudhani f r being in possession of pale brandy and rum illegally in CTS No. 1533 is still pending t in the Court of the R.M.F.C., Bijapur.

Herein, I, G.S.Betigeri, P.A.to Collector and Additional District Magistrate, Bijapur do hereby on solemn affirmation state that what is stated above in paras 1 to 8 is true on the information received and believed to be true.

Sworn in at Bijapur, this 16th day of May 1953.

SD/- G.S.Betigeri,
P.A. to Collector and
A.D.M., Bijapur.

Before me.

I know the deponant.

SD/- L. A. Savanur
16.5.1953.
SEAL. Sub-Divisional
Magistrate, F.C.
Bijapur City.

on which the application of the applicant was rejected as stated in Ex. 'D'

8. It was an error to have refused to renew the licence of the ' Modern Restaurant' as mentioned in Ex. 'E'.

9. By these the fundamental rights of the applicant guranteed by Article 19(1)(g) of the Indian Constitution has been violated.

10. The very means of livelihood of the applicant has been taken away, without any justifying cause whatever, and grave injustice has been caused to him.

X. Under these circumstances, the applicant humbly prays that this Hon'ble Court be pleased to exercise its powers under Article 227 in case the orders Ex. 'A' and 'B' are held to be judicial or quasi-judicial orders, or in the alternative under Article 226 in case the said orders are held to be executive only, as the said orders are contravening the fundamental rights of the applicant mentioned in the Article 19(1) (g), and have been passed in disregard of elementary rules of Justice and fairplay. The applicant further prays that this Hon'ble Court be further pleased to call for the R & P. in case to set aside the orders Ex. 'A' and 'E' and to direct opponent No. 1 to renew the licence of the applicant for the " Modern Restaurant " for 1953, by issuing a writ of Mandamus or any other suitable writ or direction.

And for this act of kindness, the applicant shall ever pray.

Bombay,

1953. Advocate for the Applicant.

Herein, I Yeshwantrao Narasingrao Jadhav, age 29, brother of the applicant above named, Trader of Bijapur do state on solemn affirmation that what is stated in paras I to VII except in the latter part of Para III in the above application is true to my personal knowledge and para VIII and the latter Part of Para III are true to my information which I believe to be true. I do hereby swear that I know English.

Sword in at Bijapur.

Deponant.

I know the deponent.

No. 3332 of 19

Office of the
Government Pleader, High Court,
Bombay, 16th April 1953.

From

Shri H.M.Choksi.B.A.(Hons)LL.B.
Government Pleader, High Court.

To

The District Magistrate, Bijapur,
at Bijapur.

LEGAL DEPARTMENT

18 APR 1953

Subject:- Spl. Civil Application No.508/53.
Rajaram Narsingrao Jadhav Vs, The
District Magistrate, Bijapur & ors.

Sir,

With reference to the above subject, I have the honour to send herewith a copy of the above application with a reque to send me affidavit of the authority concerned (with six copies thereof) along with detailed instructions and original case papers so as to reach me by 15th May 1953.

This should please be treated as most urgent as the above application is likely to come up for hearing in the 1st week of June 1953.

Yours faithfully,

V. J. Desai

for Government Pleader, High Court.

GOVERNMENT
LEGAL DEPARTMENT
File No. 9714
No. 20/4/53
No.

Copy along with the copy of petition forwarded with compliments to -----for favour of information and necessary instructions.

No. 3333

1) The Remembrancer of Legal Affairs, Bombay.

No. 3334

2) The District Superintendent of Police, Bijapur.

2 | 387

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

CIVIL APPLICATION NO. 508 of 1953.

District: Bijapur.

1. Rajaram Narasingrao Jadhav,
Hindu, age 30, Trader of
Bijapur. ... . APPLICANT.

V/s.

1. The Collector and District Magistrate,
~~Bijapur~~ Bijapur, Bijapur.

2. The District Superintendent of Police,
~~Bijapur~~ Bijapur, Bijapur. ... ... OPPONENTS.

Application under articles
226 and 227 of the
Constitution of India.

The Humble Petition of the applicant abovenamed MOST RESPECTFULLY, SHOWETH:-

I. The applicant is the proprietor of a Resturant and Soda Fountain and a hotel named "Modern Resturant" situated at Bijapur. It is located in a building owned by Shrimant Kasibai Desaini of Jainapur, bearing City Survey Number 1519 in Ward No. II, the Municipal number being 1180. It is situated close to a theature by name " Tripura Sundari Talkies, Bijapur" towards its north. This " Modern Resturant " is in existance for the last 7 or 8 years and the liseence to run it was being renewed year after yeear by the District Magistrate, Bijapur, (opponent No.1) or his subordinate the City Sub-division Magistrate, First Class, under the provisions of the repealed Bombay District Police Act (Act No.IV of 1890),

and since 1951, under the new Bombay Police Act (Act No. XXII of 1951). There were about 37 permanent boarders there in December 1952 and besides, it was catering the needs of various persons.

II. At about 12-30 P.M. on 27-12-1952, the applicant was served with a copy of the order issued by the Sub-divisional Magistrate, F.C., Bijapur City, bearing No. P.C.L./E.T.M. 140 dated 17-12-1952, attached herewith and marked as Ex."A". It stated that the opponent No.2, the District Superintendent of Police had reported in his letter No.306/H dated 16-12-1952, that the liscence holder, the applicant was found in possession of 3 bottles of Pale Brandy and 4 bottles of rum unauthorisedly, in his resturant, soda shop and Khanawal (hotel) situated in house No.1519 of Ward No.II, that opponent No.2 had recommended the cancellati of the liscence as they had committed the breach of the liscence conditions and that the said officer was cancelling the liscence, forthwøith.

III. As the opponent No.1 was the person to issue and cancel the liscence and as he had delegated the powers to the City Sub-divisional Magistrate, F.C., the applicant approache the opponent No.1 saying that it was absolutely false to say that any brandy or rum bottles were found in City Survey No. 1519, Ward II, where the "Modern Restura/nt" is situated. No policeman had ever entered the said premises, nor had anything been found as alleged in the said order. On enquiry the applicant had learnt that on 14-12-1952, the police had searched some other entirely different building situated in a different locality, but belonging to the same owner Shrimant Kasibai Desaini of Jainapur. That building was City Survey No.1533 of Ward No. II, situated in the Vithoba Temple Lane. That building consists of a few rooms only and each room was seperately let out to different persons by

25 791

the owner. One of such rooms had been let out by the said Kasibai Desaini to one Mahadevappa Virappa Dudhani since 1-10-1952 and it was said that the 3 bottles of pale brandy 4 bottles of rum had been found in that room on 14-12-1952.

IV. The applicant humbly submit that neither himself nor his " Modern Resturant " have anything to do with that room or its tenant Mahadevappa Virappa Dudani. The Police, however have reported, through some misunderstanding that the said bottles had been found in the " Modern Resturant " of the applicant and situated in City Survey No. 1519, Ward No. II and the learned City Sub-divisional Magistrate, F. C., had passed the order Ex. "A" on that erroneous report.

V. The application filed by the applicant with the opponent No. 1 for making enquiries and making restoring the liscence, was transferred by opponent No. 1 to his personal Assistant, who is also the Additional District Magistrate, Bijapur. That officer fixed the application for hearing on 3-1-1953at 10 A.M., as per Ex.'B', and expected the applicant to be present personally or through pleader. The applicant went to his office on the said date and time and requested him to get produced, amongst other documents, (i) the panchanama prepared by the Police and the Panchas regarding the finding of the brandy and rum bottles found on 14-12-1952 in the City Survey No. 1533, Ward No. II, situated in the Vithoba Temple Lane and in theroom occupied by Mahadevappa Virappa Dudani, and (ii) that receipt passed by the gumasta and agent of Kasibai Desaini regarding his tenancy of one room in City Survey No. 1533 where the brandy and rum bottles were found.

VI. On 3-1-1953, the Additional District Magistrate refused to hear the applicant or his pleader and refused to call for the papers including the two mentioned in para 5

above, which would have completely proved the innocence of the applicant. He gave the applicant no opportunity whatever to prove his case, nor did he even examine the applicant. And on 13-1-1953, the applicant received the order of the District Magistrate, Bijapur, opponent No.1 (Ex."C") bearing No. E.T.M.SR dated 10-1-1953 saying that the application of the applicant had been dismissed. On the same day, the applicant applied for the certified copy of the order dated 10-1-1953 showing the reasons for dismissing the application and even that request was refused, on 15-1-1953 on the ground that there was no sepearte order showing the grounds on which the request was refused. (Ex."D".)

VII. While these proceedings Were going on, the applicant had applied on 23-12-1952 to renew the liscence of the " Modern Resturant " for the year 1953, and that request too has been rejected on the ground that the liscence had been cancelled (Ex."E").

VIII. The applicant understands that a criminal case has now been put up against the said Mahadevappa Virappa Dudhani for being in unauthorised possession of 3 bottles of pale brandy and 4 of rum and that the same is pending in the Court of the Resident Magistrate, F.C., Bijapur.

IX. Being aggrieved by the said order Ex."A" of of the Sub-divisional Magistrate, F.C., Bijapur, City, to whom opponent No.1 had delegated his powers and further orders Ex."C" and Ex."E", the applicant begs to approache this Hon'ble High Court under articles 226 and 227 of the Constitu-tion of India on the following among other grounds:-

1. The orders passed by opponent No.1 and his subordinate the City Sub-divisional Magistrate, F. C., Bijapur, are contrary to law and evidence and rules of

natural Justice.

2. The liscence of the applicant to run the " Modern Resturant" ~~xx~~ ought not to have been cancelled until the criminal case put up against Mahadevappa Virappa Dudhani had been decided in the Magisterial Court.

3. At any rate, enquiries should have been made by the City sub-divisional Magistrate, F.C., before issuing his order Ex."A", as to who was in occupation of the room in City survey No. 1533 where the bottles were - found.

4. The allegation in the said order Ex."A" that the said bottles were found in the premises of the " Modern Resturant " is absolutely erroneous.

5. Cancelling of a liscence being a judicial or at least quesi-judicial act, the rules of natural justice would require that an enquiry should have been made and an opportunity given to the applicant to disprove the alligations made against him.

6. It was an error to have rejected the prayer of the applicant to allow him to show that he or his "Modern Resturant" were in no way concerned with the bottles, and to have passed the order Ex."C".

7. It was an ~~x~~ error to have refused to ~~x~~disclose the grounds made by the Additional District Magistrate, on which the application of the applicant was rejected as stated in Ex. "D".

8. It was an error tohave refused to renew the liscence of the Modern Resturant as mentioned in Ex. ~~x~~ "E'

9. By these the fundamental rights of the applicant guranteed by article 19(1)(g) of the Indian Constituti has been violated.

10. The very means of livelihood of the applicant has been taken ~~x~~ away, without any justifying cause whatever, and grave injustice has been caused to him.

3/- D 97

X. Under these circumstances the applicant humbly prays that this Hon'ble Court be pleased to exercise its powers under article 227 ~~of~~ in case the orders Ex."A" and "B" are held to be Judicial or quasi-judicial orders, or in the alternative, under article 226 in case the said orders are held to be executive only, as the sai orders are contravening the fundamental rights of the applicant mentioned in the article 19(1)(g), and have bee passed in disregard ~~of~~ of elementary rules of Justice and fairplay. The applicant further prays that this Hon' Court be further pleased to call for the R. & P. in the c to set aside the orders Ex."A" and "E", and to direct opponent No.1 to renew the liscence of the applicant for the "Modern Resturant" for 1953, by issuing a writ of Mandamus or any other suitable writ or direction.

And for this act of kindness the applicant shall ever pray.

B O M B A Y.
1953. Advocate for the Applicant.

Herein, IYeshwantrao Narasingrao Jadhav, are 29, brother of the applicant abovenamed, Trader, of Bijapur, do state on solemn affirmation that what is stated in paras I to VII except in the latter part of Para III in the above application is true to my personal knowledge and para VIII and the later part of para III are true to my ~~of~~ information which I believe to be true. I do hereby swear that I know English.

Sworn in at Bijapur.

Deponant.

I know the depondnet.

33 to 39

EXHIBIT "A".

No. P.C.L./E.T.M. 140.
Bijapur 17-12-1952.

O R D E R.

The District Supt. of Police Bijapur reports in the letter No. 306/H dated 16-12-1952 that the liscence holder Shri Rajaram Narasingrao Jadhav and Bros. of Bijapur, was found in possession of three bottles of pale brandy and four bottles of rum unauthorisizedly in his resturant, soda shop and Khanaval situated on house No. 1519 of ward No. II and recommends cancellation of the liscence as they have committed breach of liscence conditions. I therefore direct that the liscence should be cancelled forthwith.

True copy.

Sd/-
S.D.M.F.C.Bijapur City.
27-12-1952.

Sd/- C.S.Kurwatti.
Sub-divisional Magistrate,
F.C., Bijapur City.

...

D/15.4.

35 + 101

Exhibit No. "B".

No. E.T., B & C 140.
Bijapur, 31-12-1952.

N o t i c e.

The hearing of the petition of Shri Rajaram Narasingrao Jadhav of Bijapur requesting to restore his tea shop licence cancelled by the Sub-divisional Magistrat First Class, Bijapur City under his No. POL/ETM 140 dated 12-12-1952 is fixed on 3-1-1953 at 10 A.M.

The Petitioner should attend either in person or through his pleader with necessary documents if any in the office of the Additional District Magistrate, Bijapur on the above said date.

Sd/- G.S.Betigeri.
Additional District Magistrate,
Bijapur.

To

Shri R. N. Jadhav of Bijapur W. Cs. through
Shri A.V.Albal, Advocate, Bijapur W/.Cs.

...

Exhibit No."C".

No. H.T.M.S.R.
Bijapur, 10-1-1953.

Read: (1) Application from Shri Rajaram Narasingrao Jadhav of Bijapur regarding appeal against the cancellation of Hotel licence by the Sub-divisional Magistrate, F.C., Bijapur City.

(2) Enquiry papers ending with A.D.M's report dated 8-1-1953.

O r d e r.

In the circumstances reported by the Additional District Magistrate, Bijapur, the application of Shri. Rajaram Narasingrao Jadhav of Bijapur is dismissed.

Sd/- M. Allahbaksha.
District Magistrate, Bijapur.

Copy to:-

(1) Shri Rajaram Narasingrao Jadhav of Bijapur City. W.cs.

(2) The S.D.M.F.C., Bijapur with the papers of the case pages 1 to 15.

(3) The P.S.I. Bijapur City.

(4) The P.S.I., A.C.B., Bijapur.

(5) The D.S.P., Bijapur, W. Cs.

Sd/- x x x
for District Magistrate, Bijapur.

...

39 2405

Exhibit No."B"

No. C.P.I.
Bijapur, 15/1/1953.

To

Shri R.N.Jadhav of Bijapur.

Ref- Your application dated 13-1-1953.

...

You have applied for a certified copy of the order dated 10-1-1953 showing the reasons for dismissing the application. The order dated 10-1-1953 is already supplied to you. There is no seperate order dated 10-1-1953 showing the grounds on which the request was refused.

Sd/- x x x

For Collector, Bijapur.

....

D/15.4.

Exhibit No."E".

No. P.C.L./E.T.M. 140.
Bijapur, 26-12-1952.

To

Shri Rajaram Narasingrao Jadhav
propritor, Modern Resturant, Bijapur.

Subject: Renewal of licence for the year 1953.
Ref:--- Your application dated 23-12-1952.

....

Your request for the renewal of the licence for the year 1953 cannot be granted as the licence has been cancelled.

Sd/- X X X
Sub-divisional Magistrate,
F. C. Bijapur City.

...

D/15.4.

No. 9726/E

Legal Department,
Bombay Castle (BombayNo.1), 24th April 1953.

To

The District Magistrate,
Bijapur.

Subject:- Spl. Civil Application No. 508/53.
Rajaram Narsingrao Jadhav
Vs.
The District Magistrate, Bijapur & Ors

Sir,

With reference to the letter of the Government Pleader High Court No. 3332 dated the 17th April 1953 on the above subject, I am directed to request you ~~to request you~~ to forward report under rule 71(2) of the Law Officers Rules with all the papers and particulars stated in the Rule to this Department at an early date.

Yours faithfully,

for Secretary to Government.

BM.
23.4.

Schattel

Annual report for the Dr H.

Neal
25/4

Schr RN 25/4

45

No.E.T.M.S.R.4580
Bijapur, 8-5-1953.

The Assistant Registrar,
High Court of Judicature at Bombay.
Bombay.

Reference: Your No.1614 dated 20-4-1953.

The Government Pleader High Court, Bombay has been requested to appear and oppose the Civil application No.508 of 1953. :

sd/- M.ALLAHBAKSH.

District Magistrate, Bijapur

Copy with compliments to the Government, Pleader, High Court, Bombay with reference letter No.332 dated 17-4-1953.

2. The instructions are still awaited from the Police Prosecutor, Bijapur who has been expedited in the matter. On receipt of his report the instruction and original case papers will be sent to enable him to appear and and oppose the said Civil application.

Copy submitted to the Secretatry to Government Legal Department, Bombay with reference to his letter No.9726/E dated 24-4-1953.

2. The report under rule 71(2) of the Law Officers Rules with be submitted on reciept of the report from the Police Prosecutor, Bijapur

Copy with compliments to the Police Prosecutor, Bijapur for immediate submission of the case papers with his report.

LEGAL DEPARTMENT
12 MAY 1953

For District Magistrate, Bijapur.

(5)Nss8.v.

11524
E
12-5-53

LD

Submitted for information
Report for D.M. may be called.

Prep
12/5

Sdr

DM 12/5

Mrs. D. M. Bigelow has now furnished me report
and all the [illegible] of the case to this time
A [illegible] covering the depositions of the proceedings
mr. P. now has in hand

Mel
1915
55r

47 115-A

Sol.

Civil Application No.508 of 1953.

Rajaram Narasingrao Jadhav ... Applicant

vs.

1. The Collector and District Magistrate, Bijapur and another ... Opponents.

This is an Application under articles 226 and 227 of the Constitution seeking the issue of an appropriate writ against (1) the Collector and District Magistrate, Bijapur and (2) the District Superintendent of Police, Bijapur for setting aside the orders dated 17-12-1952 and 26-12-1952 passed by the Sub-Divisional Magistrate, First Class, Bijapur City (Exs. "A" and "E" to the application) respectively cancelling the licence for keeping a place of public entertainment and refusing to renew the licence. The applicant also seeks for a direction that the Collector and District Magistrate, Bijapur should renew the licence of the applicant. The main grounds on which the writ is sought are that the said orders contravene the fundamental rights of the applicant under article 19(1)(g) of the Constitution and have been passed in disregard of elementary rules of justice and fairplay.

2. The applicant claims to be the proprietor of a hotel at Bijapur named Modern Restaurant. The hotel is located in a building owned by Shrimati Kashibai Desai bearing City S.No.1519 in Ward No.2. The applicant contends that he has been carrying on the business for the last 7 or 8 years. The licence to run the restaurant stands in the name of Rajaram Narasingrao Jadhav and Brothe presumably the firm in which the applicant is a partner.

3. On 14-12-1952 Sub Inspector of Police Bijapur took search of a room in the building bearing City Survey No.153 in the same ward and belonging to the same owner and attached 7 bottles of Hyderabad liquor bearing labels of Govt. Distillery Hyderabad (Deccan). According to the

applicant one Mahadevappa Virappa Dudani was the tenant of the said room and that he had nothing to do with that room or the said tenant. It appears however that the room was in the possession of the applicant and his brother and was used as a store-room for the restaurant. The room had been taken on lease by the applicant himself and after the detection of the offence the applicant attempted to transfer the tenancy to the name of the said Dudani but the owner Mrs.Kashibai Desaini refused to accede to the applicant's request.

4. On 16-12-1952 the D.S.P., Bijapur, reported to the Sub-Divisional Magistrate, Bijapur that the owners of the said hotel i.e. the applicant and others were found in unauthorized possession of liquor and recommended that their license should be cancelled. On 17-12-1952 the Sub-Divisional Magistrate, Bijapur passed the order cancelling the licence forthwith. The said order states that the licence-holders were found in possession of 3 bottles of Pale Brandy and 4 bottles of rum unauthorizedly in his restaurant, soda shop and Khanaval situated on house No.1519 of ward No.II. From the report submitted by the District Magistrate it appears that the said letter of the D.S.P. did not state that the bottles of liquor were found in C.T.S.No.1519. It does not appear that the S.D.M. had given any opportunity to the applicant to show cause why the licence should not be cancelled.

5. On 23-12-52 the applicant applied to the Sub-Div. Magistrate, Bijapur for renewal of the licence for the year 1953. On 26-12-62 the S.D.M.

Bijapur passed an order (Ex.E, to the application) rejecting the application on the ground that the licence had been cancelled.

6. Being aggrieved by the order of the Sub-Divisional Magistrate the applicant applied to the Dist. Magistrate, Bijapur for restoration of the licence. The D.M. transferred his application to the Addl. Dist. Magistrate. The Addl. Dist. Magistrate issued a notice to the advocate of the applicant on the 31-12-52 and the matter was heard on the 3rd Jan.1953. It seems that at the hearing the Police Prosecutor took a preliminary objection to the Additional Dist. Magistrate's Court hearing the appeal as the rules did not provide for such appeal and under second proviso to sec.33(1) of the Bombay Police Act,1951 the power of superintendance is reserved to Govt. The Police Prosecutor therefore contended that since the Sub-Divisional Magistrate had acted by virtue of the Dist. Magistrate's delegated authority the D.M. or the Addl. D.M. could not sit in appealover the order of the Sub-Divisional Magistrate. The applicant's pleader promised to cite the authority to the contrary but did not do so. The Addl. Dist. Magistrate therefore recommended to the Dist. Magistrate that the application may be dismissed and by his order dated 10-1-53 the Dist. Magistrate dismissed the application.

7. From the facts stated above it will appear that the ~~application can be defended on 3 grounds~~ only available defences are:

(1) That the applicant has not exhausted all his remedies under the Bombay Police Act,1951 and he should have appealed to the Govt. under the second proviso to sec.33(1) of the Bombay Police

Act,1951 before approaching the High Court; (2) the impugned orders were passed in Dec.1952 and the present application has been filed in April 1953 i.e. nearly 4 months after the said orders were passed and the applicant is not entitled to the relief on account of his own delay; and (3) the applicant has made false statement that he was in no way concerned with the room in which the bottles of liquor were found when the room was actually standing in the name of the applicant who handed over the keys of the lock to the Police Sub Inspector.

8. On the grounds on which the orders have been challenged there does not seem to be a substantial defence. Order (Ex.A) clearly shows that the Sub-Divisional Magistrate was under the impression that the bottles were found in the premises of the hotel itself. Although the order does not expressly refer to any particular Rule the Dist. Magistrate's report indicates that the order was passed for breach of rule 12-B, which reads as follows :

" No person keeping a place of public entertainment shall keep, supply or permit to be consumed therein any liquor, country liquor or intoxicating drug as defined in the Bombay Abkari Act,1878 or any opium as defined in the Opium Act,1878".

Thus the rule prohibits the keeping, supply or permitting the consumption of liquor on the premises and it seems doubtful whether the keeping of liquor in a room in another building can be said to be keeping of liquor in the hotel premises. Further it appears that the S.D.M. passed the order without giving any notice.

5 (• 47 ~~35~~

The cancellation of a licence for keeping a place of public entertainment would be regarded by the Court as a quasi judicial order inasmuch as it is a restriction on the right of a citizen to carry on a business and the restriction will have to be a reasonable restriction. It will therefore be difficult to justify the order which is passed without giving an opportunity to the applicant of being heard.

9. As regards order dated 26-12-52 (Ex."E") it appears that the order was passed on the ground that the previous licence was cancelled. It is not very clear whether the application was for restoration or for the grant of a new licence. Even on the further appeal to the Dist. Magistrate which was heard by the Addl. D.M. it does not appear that the merits of the application were gone into. The further appeal appears to have been disposed of on a technical plea that the Dist. Magistrate who had delegated the authority to the Sub-Divisional Magistrate has no power to revise the order of the Sub-Divisional Magistrate.

10. The High Court has held that where an order is passed ~~against~~ without hearing the rules of natural justice the applicant need not resort to the other remedies and therefore the preliminary objection that the applicant should have appealed to the Govt. may not be allowed.

11. Similarly the preliminary point as to delay and misrepresentation of facts may not also be of much use in defending the application as the delay is not fatal while the misrepresentation is a matter of evidence.

MAP/-
21/5.

RBN 22/5

RLA.

I agree there is no defence to the application. If the liquor was found on the premises of the restaurant, there was no breach of rule 12 B of the Public Entertainments Rules. (See p21. in the papers before). There is no need for the police to show that the liquor found in the kitchen was being used for the purpose of the restaurant.

I do not think that merely because the liquor was found in another building, it would be held that the licensee had committed a breach of rule 12 B. The real issue is whether there is any evidence to show that the said liquor was being used in the restaurant. The D.M. should be asked to state whether any evidence is available to prove this point. He may be invited to make such a statement in the counter-affidavit. Further technical grounds should be left over until application is made.

D 22/5

Shorthand notes put up in letter to AH

RDN 23/5

53 35419

No. 12136/E
Office of the
Remembrancer of Legal Affairs,
Bombay Castle, 1st June
'53

To
The District Magistrate, Bijapur.

Subject:- Spl. Civil Application No.508/53.
Rajaram Narsingrao Jadhav vs. the District Magistrate, Bijapur & Ors.

Sir,

With reference to your letter No.E.T.M.S.R.4580 dated the 8th May 1953, on the above subject, addressed to the Government Pleader, High Court, Bombay, a copy of which has been endorsed to this Department, I am directed to invite your attention to Rule 12-IB and to enquire whether there is any evidence to show that the said liquor was being used in the restaurant. If such evidence is available please furnish particulars and state whether you will be able to make a statement in the Court on affidavit.

Yours faithfully,

Issued 1/6

Submitted for signature 1/6 RDM 3/6 or RLA

K.30/5.

Remembrancer of Legal Affairs.

Submitted

Reply from D. M. may be awaited.

NGP
2/6
SOV

RDK 2/6.

Resubmitted

The D. M has now stated that there is no documentary evidence to show that liquor was being used in the Modern Restaurant.

NGP
12/6
SOV

In view of the D.M.'s reply it will not be possible to justify the order. Since an affidavit has already been filed we need not ask G.P. Hqr. to offer to withdraw the order but may await Court decision.

RDK
12/6

Seen

55 "3/53

No.ETM.SR, 4580.
Dist.Magistrate's Office,
Bijapur, 9-6-1953.

The Remembrancer of Legal
Affairs,Bombay.
BOMBAY.

LEGAL DEPARTMENT
11 JUN 1953

GOVERNMENT
LEGAL DEPARTMENT
File No. 14357 G
Dis No. 12/6/53

Subject:- Spl.Civil application
No.508/53
Rajaram Narasingrao Jadhav
Vs.the District Magistrate,
Bijapur & Ors.

Reference:- Your letter No.12136/E
dated 1-6-1953.

There is no documentary evidence to show that liquor was being used in the " MODERN RESTAURANT".The P.S.I.Anti Corruption Branch, Bijapur raided the restaurant on reliable information that liquor was stored in the room raided.

Copies of P.S.I.,A.C.B's'report and case diary of this case are enclosed.

For District Magistrate,Bijapur.

57 ***

No. 12961/E
Legal Department.
Bombay Castle, 15th June 1953.

To

The Government Pleader,
High Court, Bombay.

Subject: Spl.Civil Application No. 508/53.
Rajaram Narasingrao Jadhav vs. the
District Magistrate, Bijapur & Ors.

Sir,

With reference to your endorsement No. 3333, dated the 17t April 1953, on theabove subject, I am directed to forward herewith a copy of the District Magistrate, Bijapur's letter No.ETM SR.4580, dated the 9th June 1953, and along with the copies of P.S.I.A.C.B's report and case diary of the case and I am furthe directed to request you to state whether in view of the Distric Magistrate's letter, it will be possible to defend the Application.

Yours faithfully,

Issued 15/6

By 15/6
for Secretary to Government.

Subhan Anjuman
MCP
15/6

MMS.15.6.

Submitted.

Reply from G.P Hc may be awaited.

MGP
16/6
Sdr

RN 16/6

59 5427

IMMEDIATE

No. 4928

Office of the
Government Pleader, High Court,
Bombay: 4th July 1953.

From:

Shri H.M.Choksi, B.A.(Hons.),LL.B.,
Government Pleader, High Court.

To:

The Remembrancer of Legal Affairs,
Bombay.

Subject: Special Civil Application 508/53
Re:Cancellation of Hotel Lifence.

Legal Department,
Secretariat, Bombay.
6-JUL 1953
16294
E
6/7/53

Sir,

I have the honour to acknowledge your letter No.12961/E dated the 15th June 1953.

In my opinion, it is not possible to successfully contest the above application. Since the liquor was not found in the premises of the hotel "Modern Restaurant" the cancellation of the licence by the District Magistrate under Rule 12-B of the Rules attached to the licence is not legal. It is clear from the case diary that the liquor was found in the store-room which was in possession of tenant Mahadevappa Virappa Dudhani and that Rajaram and Yeshwantrao were the co-owners of the said property. The case diary makes it perfectly clear that the liquor was not found from the restaurant.

In these circumstances, it will be better if the District Magistrate withdraws the order of the cancellation of the licence before the hearing of this application which is fixed on Monday the 13th instant.

Yours faithfully,

Government Pleader, High Court.

P.S.: The original papers received from you are returned herewith and the same may please be returned along with your instructions.

Legal Dept.

Sahib

The E.P. High Court is of the view that the cancellation of the licence by the D.M. is not legal as liquor was not found from the restaurant. A copy of this opinion may be forwarded to the D.M. who may be requested to withdraw the order of the cancellation of the licence before the hearing of the appln. ie, 13th inst, and report the same to the E.P. H.C. immediately by wire. The papers of the case may also be forwarded to the Dr.

7/7

Sol

R.L.A. (Shri Shamsekhar) was also of the same view.

He may see the papers and issue the wire immediately

BN 7/7.

Addl Secy. 7/7

Dr No. 14519/E dt 7.7.53.

with case files

7/7/53 5.30 pm

LD. 14519/E
7.7.53
10020

IMMEDIATE. EXPRESS LETTER. 61

CONFIDENTIAL

From

Shri P.Furtado,
Assistant Secretary to the Government of Bombay,
Home Department.

To

The District Magistrate, BIJAPUR.

Subject:--Special Civil application No.508/53.
Rajaram Narasingrao Jadhav Vs. the
District Magistrate,Bijapur and Ors.

No.L.D.14519-E. Bombay Castle, 8th July 1953.

Reference correspondence ending with your letter No.ETM.SR.4580, dated the 9th June 1953, addressed to the Remembrancer of Legal Affairs,Bombay, on the subject noted above.

2. A copy of letter No.4928,dated the 4th July 1953,on the subject noted above, is enclosed. In view of the opinion expressed by the Government Pleader you are requested to withdraw the order of the cancellation of the licence before the hearing of the application in the High Court on the 13th July 1953 and report the same to the Government Pleader immediately by wire.

3. You are also requested to renew the licence in question for the current year.

4. The papers of the case are returned herewith.

P.Furtado,
Assistant Secretary to the Government of Bombay,
Home Department.

MRA8

IMMEDIATE.

No.4928.
Office of the Government Pleader,High Court,
Bombay: 4th July 1953.

From

Shri H.M.Choksi,B.A.(Hons.),LL.B.,
Government Pleader.High Court.

To

The Remembrancer of Legal Affairs, BOMBAY.

Subject:--Special Civil Application 508/53
Re: Cancellation of Hotel Licence.

Sir,

I have the honour to acknowledge your letter No.12961/E,dated the 15th June 1953.

In my opinion, it is not possible to successfully contest the above application. Since the liquor was not found in the premises of the hotel "Modern Restaurant",the cancellation of the licence by the District Magistrate under Rule 12-B of the Rules attached to the licence is not legal. It is clear from the case diary that the liquor was found in the store-room which was in possession of tenant Mahadevappa Virappa Dudhani and that Rajaram and Yeshwantrao were the co-owners of the said property. The case diary makes it perfectly clear that the liquor was not found from the restaurant.

In these circumstances,it will be better if the District Magistrate withdraws the order of the cancellation of the licence before the hearing of this application which is fixed on Monday the 13th instant.

Yours faithfully,

Sd/-
Government Pleader,High Court.

N.B.: The original papers received from you are returned herewith and the same may please be returned along with your instructions.

MA8
4/30

65

IMMEDIATE.

No. 14844/E
Legal Department,
Bombay Castle, 11th July 1953.

To

The Government Pleader,
High Court, BOMBAY.

Subject:- Special Civil Application No.508 of 1953
Re: Cancellation of Hotel Licence.

Sir,

With reference to your letter No.4928, dated the 4th July 1953, on the above subject, I am directed to state that the District Magistrate, Bijapur, has been requested to withdraw the order of the cancellation of the licence before the hearing of the application in the High Court and report the same to you immediately by wire.

Yours faithfully,

For Secretary to Government.

MRP.
11/7

67 459

No.ETM.SR.4580.

Bijapur, 9-7-1953.

The Government Pleader
High Court,Bombay.

Subject: Special Civil application No.508/53
Regarding cancellation of hotel
licence.

Reference: Your endt.No.4929 dated 4-7-1953.

....

The tea,Soda and Khanawal licence of Shri Rajaram Narasingrao Jadhav of Bijapur cancelled by the Sub Divisional Magistrate under his order No.POL/ETM dated 27-12-1952 has been regranted to him on 8-7-1953.

for District Magistrate,
Bijapur

16908
E.13-7-53

Copy w.cs. to the Remembrancer of Legal Affairs ,Bombay.

69 145

		Rs. as. ps.
K.338.	Copying & Comparing charges.	0-6-0 Fol. 1.
	Paper charges.	0-0-3
	Total Rs.	0-6-3

Annas six and pies three only.

Superintendent, D.D.
19-8-1953.

15-7-53
19-8-53
4-9-53

Typed by Mr.D.R.Gokarn
Examined by Mr. P.J.Nyas
Read by Mr. V.D.Shah

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

Order passed by the High Court in the Case of :

1. Rajaram Narasingrao Jadhav.....Applicant.

Versus.

1. The Collector and District Magistrate, Bijapur, Bijapur.

2. The District Superintendent of Police, Bijapur, Bijapur. ... .Opponents.

2.
being Special Civil Application No. 508 of 1953
(Under Articles 226 & 227 of the Constitution of India)

Mr. V. V. Albal, Advocate for the Applicant.
The Govt. Pleader for the Opponents.

Coram: Chagla, C.J., & Dixit, J.

The Government Pleader says that the license has been restored to the Petitioner. In view of the fact thate will be no order on the petition. No order as to costs.

13-7-1953.

Sd/- V. R. Gadkari
Deputy Registrar 13/7

HIGH COURT APPELLATE SIDE CERTIFIED COPY BOMBAY

True Copy

19/8

For Deputy Registrar

The 19th day of August 1953.

71 47

		Rs.as.ps.	
K.338	Copying & Comparing charges.	0-12-0	Fols. 2.
	Paper charges.	0-0-3	
	Total Rs.	0-12-3	

Annas twelve and pies three only.

Superintendent, D.D.
19-8-1953.

15-7-53
19-8-53
4-9-53

Typed by Mr.D.R.Gokarn
Examined by Mr. P.J.Vyas
Read by Mr. V.D.Gokarn

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

Order passed by the High Court in the Case of :

1. Rajaram Narasingrao Jadhav.....Applicant.

Versus.

1. The Collector and District Magistrate, Bijapur, Bijapur.

2. The District Superintendent of Police, Bijapur, Bijapur. ... .Opponents.

&.
being Special Civil Application No. 503 of 1953
(Under Articles 226 & 227 of the Constitution of India)

Mr. V. V. Albal, Advocate for the Applicant.
The Govt. Pleader for the Opponents.

Coram: Chagla, C.J., & Dixit, J.

The Government Pleader says that the license has been restored to the Petitioner. In view of the fact there will be no order on the petition. No order as to costs.

13-7-1953.

Sd/- V. R. Gadkari
Deputy Registrar 13/7

COURT APPELLATE SIDE CERTIFIED COPY BOMBAY HIGH

Bill of costs in the High Court:

By the Applicant:		Rs.as.ps.
Stamps for Application		5-0-0
Stamps for copy of Order.		1-4-0
Stamps for Vakalatnama.		2-8-0
Bhatta for Process.		2-8-0
Advocate's Fee.		45-0-0
	Surcharge.	11-4-0
Stamp for affidavit.		1-4-0
Search fee.		1-4-0
	Total Rs.	70-0-0

2409 72

By Opponent :	Rs.as.ps.
Stamps for Vakalatnama. *G.P.appears.	0-0-0
Advocate's Fee.	45-0-0
Surcharge.	11-4-0
Total Rs..	56-4-0

(Seal)

Sd/- V. R. Gadkari

Deputy Registrar

The 13th day of July 1953.

True Copy

For Deputy Registrar

The 19th day of August 1953.

Cw A-A (Bist pd.) 1/-
11-9.